

Application No.: 10/827,527**Docket No.: 200400476-2 (1509-499)****REMARKS**

The claims have been amended for clarity, to assure infringement of the apparatus claims at the time the goods are sold, to provide active method steps, and to obviate the rejection of claims 15-17 under 35 U.S.C. §101 as being directed to non-statutory subject matter and the rejection of claims 15 under 35 U.S.C. §112, second paragraph, as being indefinite. Claim 15 is a dependent claim that includes all the limitations of method claim 1. There is nothing indefinite about such a claim because a third party can determine if the product it is making, using, selling, or planning to sell does or will infringe such a claim. This is the proper test under 35 U.S.C. §112, second paragraph. If this rejection is maintained, the Examiner is requested to cite a case supporting his position.

Applicant traverses the rejection of claims 1-4, 7-11, and 14-17 under 35 U.S.C. §102(b) as being anticipated by Hughes et al. (U.S. 6,519,768). The Office Action alleges lines 1-14 of the Hughes abstract disclose identifying a set of target instructions that is semantically equivalent to a given source instruction. However, there is nothing in lines 1-14 of the Hughes abstract indicating a set of target instructions is identified. Explanation is requested if this rejection is repeated.

The Office Action also says lines 1-14 of the Hughes abstract disclose analyzing a set of target instructions to identify data dependencies in the target instructions. This portion of the Hughes indicates the source instruction set is analyzed, but there is no mention of analyzing a set of target instructions.

The Office Action also alleges column 3, lines 57-65, of Hughes discloses assigning an identifier to one or more of said target instructions for use by a code analyzer in

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scheduling the processing of said set of target instructions in accordance with the identified data dependencies.

There is no mention in this portion of Hughes of a code analyzer scheduling and processing a set of target instructions as claims 1 and 8 require. New claims 18 and 19 more particularly define the scheduling feature by the code analyzer of claims 1 and 8.

In connection with claims 7 and 14, the Office Action alleges Hughes discloses, at column 2, line 42, through column 3, line 20, and column 4, lines 20-30, that each translation template is associated with a corresponding analysis routine for generating code for scheduling execution of the translated code. There is no mention of scheduling exterior and translated code in these portions of Hughes.

Applicant traverses the rejection of claims 5, 6, 12, and 13 under 35 U.S.C. §103(a) as being anticipated by Hughes in view of Lewis (U.S. 6,378,066). Because Lewis does not cure the foregoing defects of the rejection of claims 1 and 8 based on Hughes, this rejection is incorrect. This rejection is also wrong because Lewis is not concerned with translating from source format to target format. Consequently, one of ordinary skill in the art would not have looked from Hughes to Lewis for a parallel processing environment to obtain flexibility and optimization of a translation process.

As to claims 6 and 13, the Office Action states Lewis discloses, at column 5, line 66, through column 6, line 5, that data dependencies are represented by a directed acyclic graph, and the identifier is arranged to identify said dependency signaling an appropriate edge in the set of target instructions to said code analyzer. Because no rationale is given

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for incorporating such an arrangement in Hughes, the Office Action does not attempt to establish a *prima facie* case of obviousness.

New claim 20, the subject matter of which is discussed on page 4, lines 11-19, of the specification, has been added to provide protection to which Applicant is entitled.


Allowance is in order.

To the extent necessary, Applicant hereby requests any required extension of time not otherwise requested and hereby authorizes the Commissioner to credit any overpayment or charge any omitted required fee, including application processing, extra claims, and extension fees, to Deposit Account 08-2025.

Respectfully submitted,

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